



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES OF AMERICA,)	Magistrate Case No.: 08MJ8366
)	
9 Plaintiff,)	<u>COMPLAINT FOR VIOLATION OF</u>
)	
10 v.)	Title 8, U.S.C., § 1326
)	Attempted Entry After
11 Juan Antonio CALITO-Chitay,)	Deportation (Felony)
)	
12 Defendant.)	<u>AMENDED</u>
)	

14 The undersigned complainant being duly sworn states:

15 On or about April 30, 2008, within the Southern District of
 16 California, defendant Juan Antonio CALITO-Chitay, an alien, knowingly
 17 and intentionally attempted to enter the United States of America with
 18 the purpose, i.e. conscious desire, to enter the United States without
 19 the express consent of the Attorney General of the United States or
 20 his designated successor, the Secretary of the Department of Homeland
 Security, after having been previously excluded, deported and removed
 from the United States to Guatemala, and not having obtained said
 express consent to reapply for admission thereto; and committed an
 overt act, to wit, crossing the border from Mexico into the United
 States, that was a substantial step towards committing the offense,
 all in violation of Title 8, United States Code, Section 1326.

21 And the complainant states that this complaint is based on the
 22 attached Statement of Facts, which is incorporated herein by
 reference.

24 MARCO A. MIRANDA
 Senior Border Patrol Agent

25 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2ND DAY
 26 OF MAY 2008.

28 JAY R. NRWIN
 UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA
2 v.
3 Juan Antonio CALITO-Chitay

4 STATEMENT OF FACTS
5
6

The complaint and Statement of Facts is being amended to reflect the Defendant's, Juan Antonio CALITO-Chitay, true country of birth as Guatemala.

The complainant states that this complaint is based upon the statements of the apprehending Border Patrol Agent, R. Harrington, that the Defendant was arrested on April 30, 2008, east of Calexico, California.

BPA Harrington was performing his assigned Border Patrol duties approximately 3.5 miles east of the downtown Calexico, California, Port of Entry. At approximately 9:00 p.m. the Remote Video Surveillance Systems (RVSS) operators observed a group of individuals cross the United States/Mexico International Boundary by rafting across the All American Canal. The RVSS operator maintained constant visual of the group as they ran north into an agricultural field. Agent Harrington responded to the area. The RVSS operator guided Agent Harrington to the group's location. Agent Harrington found five subjects one later identified as, Juan Antonio CALITO-Chitay. Agent Harrington identified himself as a United States Border Patrol Agent and questioned him as to his immigration status. CALITO-Chitay stated that he was a citizen of Mexico illegally in the United States. CALITO-Chitay also admitted to entering the United States by crossing over the International Border. CALITO-Chitay was arrested and transported to the Calexico Border Patrol Station for further processing.

Record checks revealed that an Immigration Judge ordered CALITO-Chitay deported. Record checks also revealed CALITO-Chitay was not a citizen of Mexico, but a citizen of Guatemala. CALITO-Chitay was ordered deported on October 22, 2006. Record checks revealed that CALITO-Chitay has an extensive criminal record.

There is no evidence CALITO-Chitay has sought or received permission from the Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States.